

Message Text

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TO SECSTATE WASHDC 6561

INFO USMISSION GENEVA

C O N F I D E N T I A L SECTION 1 OF 2 MONTEVIDEO 1807

E.O. 11652: GDS

TAGS: PGOV, ELAB, UY

SUBJ: GOU SURFACES GUIDELINES FOR NEW TRADE UNION LEGISLATION

1. SUMMARY: THE GOU HAS NOW PUBLISHED A SET OF "GUIDELINES" WHICH WILL SERVE AS THE BASIS FOR FUTURE LEGIATION TO REGULATE THE COUNTRY'S TRADE UNION MOVEMENT. THEY WERE PROMPTED BY A GOU COMMITMENT AT LAST YEAR'S ILO GENERAL SESSION TO "NORMALIZE" URUGUAY'S UNIONS, WHICH HAVE BEEN VIRTUALLY DORMANT FOR THE PAST SEVERAL YEARS UNDER TIGHT GOVERNMENT CONTROL. PREPARED BY A GIVE-PERSON WORKING GROUP OF SENIOR BUREAUCRATS, THE GUIDELINES WERE APPROVED ABOUT A MONTH AGO AND HAVE BEEN UNDER REVIEW IN GENEVA SINCE THAT TIME. THEY HAVE BEEN CLOSELY HELD UNTIL NOW BY THE GOUN AND THERE HAS BEEN NO KNOWN DIRECT INPUT BY THE LABOR SECTOR. ALTHOUGH THEY ARE BEING VIEWED WITH UNDERSTANDABLE SKEPTICISM, THE GUIDELINES COULD PROVIDE AN OPENING FOR RENEWED TRADE UNION ACTIVITY -- IF TURNED INTO LEGISLATION AND APPLIED BY THE GOU WITH A REASONABLE SHOW OF GOOD FAITH. END SUMMARY.

2. THE PROPOSED LAW IS DESIGNED TO REGULATE THE FORMATION OF "PROFESSIONAL ASSOCIATIONS". THESE ARE DEFINED AS "CIVIL ASSOCIATIONS, OF WORKERS AS WELL AS EMPLOYERS, CONFIDENTIAL

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CONSTITUTED TO PROMOTE, STUDY, IMPROVE AND DEFEND THEIR RESPECTIVE INTEREST IN THE FIELD OF LABOR". THEY WILL BE PERMITTED TO ORGANIZE WITHOUT PRIOR AUTHORIZATION, BUT THEIR STATUTES MUST GUARANTEE THE FOLLOWING PRINCIPLES:

-A) ACTIVITIES MUST BE "SPECIFICALLY LABOR",
EXCLUDE ALL POLITICAL, RELIGIOUS AND PROFIT-MAKING ACTI-

VITIES AND NOT VIOLATE THE LAW;

-B) ELECTION AND INSTITUTIONAL DECISIONS MUST BE
REALIZED IN DULY CONSTITUTED ASSEMBLIES AND THROUGH
OBLIGATORY, SECRET BALLOT;

-C) GUARANTEES MUST BE ESTABLISHED FOR THE FREE
CONDUCT AND DUE CONVENING OF MEETINGS;

-D) MEMBERSHIP IN AND DEPARTURE FROM THE
ASSOCIATION WILL BE "ENTIRELY FREE"; AND

-E) PROPER ADMINISTRATIVE AND FISCAL SAFEGUARDS
MUST BE ESTABLISHED ALONG WITH A PERIODIC RENDERING OF
ACCOUNTS.

3. FOR ITS PART, THE GOU WILL CREATE A REGISTRY IN WHICH
ALL SUCH ASSOCIATIONS MUST BE INSCRIBED, BUT RECOGNITION
MUST NOT BE DENIED EXCEPT FOR DUE CAUSE. THE ASSOCIATION
"WILL ENJOY ALL THE RIGHTS NECESSARY FOR THE FULFILLMENT
OF THEAIMS", AND MUST ABIDE BY PERTINENT LAWS AND REGU-
LATIONS. MEMBERS MUST BE URUGUAYAN CITIZENS OR LEGAL
RESIDENTS, AND MUST BE ENGAGED/EMPLOYED IN THE FIELD FOR
WHICH THE ASSOCIATION WAS ORGANIZED. OFFICERS MUST BE
URUGUAYAN CITIZENS, BE MEMBERS OF THE ASSOCIATION FOR AT
LEAST TWO YEARS, AND BE WILLING TO MAKE A "DECLARATION OF
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DEMOCRATIC BELIEFS". THE ACTIVITY OF INDIVIDUAL MEMBERS
IN OR ON BEHALF OF THE ASSOCIATIONS, MUST BE IN CONFORMITY
WITH THE LAW.

4. FINALLY, THE PROFESSIONAL ASSOCIATIONS MAY BE SUSPENDED
OR DISSOLVED "FOR NON-FULFILLMENT OF THEIR PURPOSES, OF THE
PRINCIPLES THEY MUST RESPECT, OR FOR CONTRAVENTION OF THE
REQUISITES NECESSARY FOR THEIR INSCRIPTION IN THE REGISTER".
SUCH SUSPENSION OR DISSOLUTION MUST BE ORDERED BY THE TRIBUNAL
OF LABOR APPEALS.

5. THESE DRAFT "GUIDELINES" WERE HAMMERED OUT OVER A THREE
MONTH PERIOD. THEY REPRESENT WHAT HAS BEEN DESCRIBED TO THE
EMBASSY AS A COMPROMISE BETWEEN WHAT THE WORKING GROUP'S MORE
LIBERAL MEMBERS SAW AS NECESSARY TO PASS MUSTER BEFORE THE
ILO, AND THE DESIRES OF THE MILITARY, WHO HAD PREPARED THEIR
OWN DRAFT FOR CONSIDERATION BY THE WORKING GROUP. THIS
LATTER HAD INCLUDED PROVISIONS LIMITING MEMBERSHIP OF UNIONS
TO A SINGLE COMPANY AND REQUIRING ANNUAL ELECTION OF UNION
OFFICIALS, WITH NO RE-ELECTION FOR TWO SUCCEEDING YEARS.
INTERESTINGLY, THE DRAFT ATTRIBUTED TO THE MILITARY SPECI-
FICALLY RECOGNIZES THE RIGHT TO STRIKE, ABOUT WHICH THE

"GUIDELINES" ARE SILENT. IN MOST OTHER RESPECTS THE TWO DOCUMENTS ARE SIMILAR.

6. THE OBJECT OF THE GOU (AND OF THE DRAFTING COMMITTEE) WAS TO ALLOW A SUFFICIENT DEGREE OF LABOR ACTIVITY TO SATISFY INTERNATIONAL CRITICISM, BUT WITHOUT PERMITTING A RETURN TO THE HIGHLY POLITICIZED, MARXIST CONTROLLED TRADE UNIONS OF THE RECENT PAST. THUS, THE EXPLICIT STRICTURES AGAINST POLITICAL ACTIVITY AND THE REQUIREMENTS FOR OBLIGATORY VOTING, SECRET BALLOT AND DULY CONVENED MEETINGS. ALSO CLOSELY RELATED IS THE UNUSUAL REQUIREMENT THAT UNION (OR EMPLOYER ASSOCIATION) OFFICIALS MAKE A DECLARATION OF DEMOCRATIC BELIEFS. WE ARE TOLD THAT THE WORKING GROUP'S MILITARY MENTORS HAD ORIGINALLY INSISTED ON A "CERTIFICADO DE FE CONFIDENTIAL

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DEMOCRATICA", THE LATTER BEING A FORMAL POLICE CERTIFICATE, BASED ON RAW INTELLIGENCE FILES, TO THE EFFECT THAT AN INDIVIDUAL HAS NEVER ENGAGED AT ANY TIME IN ACTIVITIES PRESENTLY CONSIDERED BY THE GOU TO HAVE BEEN "SUBVERSIVE". (THIS DEFINITION IS VERY BROADLY CAST, AND THE CERTIFICATE IS NOW REQUIRED FOR ANY GOVERNMENT JOB AND BY AN INCREASING NUMBER OF PRIVATE EMPLOYERS.) THE "DECLARATION" FORMULA ULTIMATELY APPROVED IS DESCRIBED BY ITS CLAIMED INVENTOR (AN EXPERIENCED LABOR LAWYER AND UNIVERSITY PROFESSOR) AS ESSENTIALLY MEANINGLESS AND JUDICIALLY UNENFORCEABLE, BUT AS HAVING BEEN REQUIRED TO PLACATE THE SKEPTICS.

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C O N F I D E N T I A L SECTION 2 OF 2 MONTEVIDEO 1807

7. ALBOR MINITER ETCHEVERRY STIRLING, IN ANNOUNCING THE GUIDELINES, INDICATED THAT PREPARATION OF THE FINAL LEGISLATION WOULD BEGIN RIGHT AFTER THE CURRENT ILO SESSION. HE FORESAW THE DRAFTING-APPROVAL PROCESS AS BEING COMPLETE BY THE BEGINNING OF NEXT YEAR. ONLY THE PRIVATE SECTOR WILL BE COVERED; GOVERNMENT EMPLOYEES WILL BE COVERED IN OTHER LEGISLATION TO BE DEVELOPED. ASKED ABOUT THE LACK OF SPECIFIC REFERENCE ABOUT THE RIGHT TO STRIKE, ETCHEVERRY EVADED, SAYING "WE DO NOT LINK THE ISSUE OF STRIKES WITH THAT OF LABOR ASOCIATIONS".

8. INITIAL REACTION TO THE GUIDELINES HAS BEEN GENERALLY ONE OF RESERVE AND SKEPTICISM. TRADE UNIONISTS POINT TO FIVE YEARS OF GOU REPRESSION OF THE LABOR MOVEMENT AND FIND IT HARD TO BELIEVE THAT THE MILITARY'S APPARENT FEAR AND MISTRUST OF ORGANIZED LABOR HAVE SUDDENLY GIVEN WAY TO TOLERANCE. (CONCERN OVER A RESURGENCE OF THE COMMUNIST UNIONS IS ALSO STRONG IN GOU CIVILIAN SECTORS, INCLUDING LABOR MINISTRY PROFESSIONALS.) PARTICULAR SUSPICION IS DIRECTED TOWARD THE RELAXED TIMETABLE FOR IMPLEMENTATION OF THE PROPOSED LAW, AND OVER THE GUIDELINES' CAREFUL AVOIDANCE OF ANY MENTION OF TRADE UNIONS PER SE, IN FAVOR OF THE EUPHEMISM "PROFESSIONAL ASSOCIATIONS". (WE ARE TOLD THAT THE LATTER WAS DECIDED ON BY THE DRAFTING GROUP AS A MEANS OF DISARMING THE GOU'S

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ULTRAS, TO WHOM ANY MENTION OF THE TERM "TRADE UNION" SMACKS OF COMMUNISM.) ON THE PLUS SIDE, ALTHOUGH NOT WIDELY CREDITED, IS THE GOU'S COMMITMENT TO THE ILO -- TO WHICH IT IS AT LEAST PAYING LIP SERVICE -- TO "NORMALIZE" THE LABOR SITUATION. THERE HAVE ALSO BEEN SOME ENCOURAGING INDICATIONS FROM SOME OF THE LABOR SECTOR'S MILITARY WATCH-DOGS, WHO SEEM TO RECOGNIZE THE INEVITABILITY OF A FUNCTIONING LABOR MOVEMENT IN URUGUAY.

9. OBVIOUSLY, THE PROOF OF THIS PUDDING WILL BE IN THE EATING. WE SUSPECT THAT DRAFTING AND IMPLEMENTATION OF THE NEW LAW WILL PROVIDE YET ANOTHER TESTING GROUND FOR THE GOU'S MODERATES, AND THAT THEY WILL MEET VIGOROUS RESISTANCE FROM THE GOU'S MORE EXTREME MILITARY AND CIVILIAN ELEMENTS. THE RESULTING COMPROMISE MAY DEPEND HEAVILY FOR ITS VIABILITY ON THE SKILL AND DETERMINATION OF URUGUAY'S LABOR MOVEMENT.

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